

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FIRENZA STONE, INC.,

Plaintiff,

-VS-

BRETON USA CUSTOMER SERVICE
CORP and BRETON S.p.A.,

Defendants.

Case No. _____

Judge: _____

NOTICE OF REMOVAL

Nicholas T. Stack (0086333)

Evan J. Bunis (0101115)

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Attorneys for Defendants

* * *

Defendants, Breton USA Customers Service Corp. (“Breton USA”) and Breton S.p.A. (collectively, “Defendants” unless otherwise noted), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, give notice of the removal of this action from the Court of Common Pleas for Lake County, Ohio, to the United States District Court for the Northern District of Ohio, based upon the following:

1. State Court Action. On May 31, 2022, Plaintiff, Firenza Stone, Inc. (“Plaintiff”) filed the underlying Complaint in the Lake County Court of Common Pleas under Case No. 22CV000681 (“State Court Case”). Pursuant to 28 U.S.C. § 1446(a), true and accurate copies of the Summons issued to each of the Defendants and of the Complaint are attached as Exhibit A. No other state court process, pleadings or orders have been served upon Defendants.

2. Timeliness of Notice. On June 6, 2022, Breton USA received a copy of the Summons and Complaint at its offices in Sarasota, Florida. On June 17, 2022, Breton S.p.A. received a copy of the Summons and Complaint at its offices in Italy. Therefore, this Notice is timely filed within thirty (30) days after receipt by the Defendants as required by 28 U.S.C. § 1446(b)(1). *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

3. Venue. This Court is in the judicial district and division embracing Lake County, Ohio, the place where Plaintiff filed the State Court Case. Thus, this Court is the proper District Court to which this case should be removed. *See* 28 U.S.C. §§ 1441(a) and 1446(a).

4. Diversity of Citizenship. Pursuant to 28 U.S.C. § 1332(a)(1) and (2), this Court has jurisdiction over this action because the matter in controversy allegedly exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states (Plaintiff and Breton USA) and citizens of a foreign state (Plaintiff and Breton S.p.A.).

A. Complete Diversity. As alleged in the Complaint, Plaintiff is an Ohio corporation with its principal place of business in Ohio. Breton USA is alleged to be “of Florida” and, in fact, is a Florida corporation with its principal place of business in Florida. Breton S.p.A. “is an Italian based company” and, in fact, is an Italian company. *See id.*, caption and ¶¶ 1, 3 and 4.

B. Amount in Controversy. The amount in controversy in this action exceeds \$75,000 as, among other claims, Plaintiff seeks revocation of a contract involving its purchase of machinery for a price in excess of \$554,000.00. *Id.* ¶¶ 7 and 102-103.

5. Notice to Plaintiff and State Court. Pursuant to 28 U.S.C. § 1446(d), Defendants will serve a copy of this Notice upon Plaintiff promptly after filing the same in this Court. Defendants will also file a copy of this Notice with the Clerk of Courts for Lake County, Ohio. A copy of the state court notice to be filed is attached as Exhibit B.

6. No Admission. Defendants make no admission of fact, law or liability through this Notice. Defendants expressly reserve any and all rights, claims, motions, defenses, and affirmative defenses including, without limitation, all jurisdictional, procedural, and substantive defenses related to the Complaint.

WHEREFORE, Defendants respectfully request that this Court accept this Notice, assume jurisdiction of this case, and issue further orders and process as may be necessary.

/s/Nicholas T. Stack
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CERTIFICATE OF SERVICE

This is to certify that on June 30, 2022, a copy of the foregoing **NOTICE OF REMOVAL** was filed electronically and served by electronic and ordinary U.S. mail upon:

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